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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Preston Guillermo Toro,

10 Plaintiff,

11 v.

12 Howard Fell, et al.,

13 Defendants.
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No. CV-24-00397-TUC-AMM (MSA)

ORDER

15 On March 4, 2025, Magistrate Judge Maria S. Aguilera issued a Report and
16 Recommendation recommending this Court grant Defendant Pima County Superior Court
17 Judge Howard Fell's Motion to Dismiss. (Doc. 28.) Judge Aguilera also recommended
18 the Court deny Plaintiff Preston Toro's Motion to Stay Criminal Case and dismiss
19 Defendant Adult Criminal Defender Katherine Voll sua sponte with leave for Plaintiff to
20 file an Amended Complaint. (*Id.* at 1.)

21 Judge Aguilera notified the parties they had fourteen (14) days to file any written
22 objections to the proposed findings and recommendation. (*Id.* at 6.) Neither party filed an
23 objection, and the time to do so has now passed.

24 A district court is not required to conduct "any review at all . . . of any issue that is
25 not the subject of an objection." *Thomas v. Arn*, 474 U.S. 140, 149 (1985); *see also* 28
26 U.S.C. § 636(b)(1) ("A judge of the court shall make a de novo determination of those
27 portions of the report or specified proposed findings or recommendations to which
28 objection is made."). "[T]he court need only satisfy itself that there is no clear error on

1 the face of the record in order to accept the recommendation.” Fed. R. Civ. P. 72(b),
2 Advisory Committee Notes 1983 Addition.

3 The Court has reviewed the Complaint (Doc. 1), Motion to Dismiss (Doc. 13),
4 Plaintiff’s Response (Doc. 21), Defendant Judge Fell’s Reply (Doc. 24), Plaintiff’s
5 Motion to Stay Criminal Case (Doc. 26), and the R&R (Doc. 28). The Court agrees with
6 Judge Aguilera’s conclusions and finds there is no clear error in her recommendation.
7 Accordingly,

8 **IT IS ORDERED:**

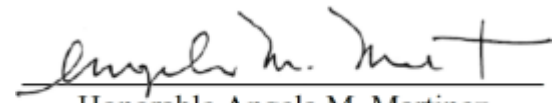
9 (1) The Report and Recommendation is **ADOPTED**. (Doc. 28.)

10 (2) Defendant Judge Fell’s Motion to Dismiss is **GRANTED**. (Doc. 13.) Defendant
11 Judge Fell is **DISMISSED WITH PREJUDICE**.

12 (3) Plaintiff’s Motion to Stay Criminal Case is **DENIED**. (Doc. 26.)

13 (4) Defendant Voll is **DISMISSED WITHOUT PREJUDICE**. Plaintiff may file an
14 Amended Complaint as to his claims against Defendant Voll only no later than
15 **April 16, 2025**. If Plaintiff files an Amended Complaint, this matter shall remain
16 referred to Judge Aguilera for all pretrial proceedings and report and
17 recommendation, in accordance with the provisions of 28 U.S.C. § 636(b)(1), Fed.
18 R. Civ. P. 72, and LRCiv. 72.1 and 72.2. If Plaintiff fails to file an Amended
19 Complaint on or before April 16, 2025, the Clerk of Court shall, without further
20 notice, enter a judgment dismissing this case with prejudice.

21 Dated this 21st day of March, 2025.

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23 
24 Honorable Angela M. Martinez
25 United States District Judge
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